



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

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Washington, D.C. 20006

**MAR 30 2009**

**RE: MUR 6179 (Christopher Ward)**

**Dear Mr. Machen:**

On May 28, 2008, the Federal Election Commission notified your client, Christopher Ward, of a complaint in MUR 6017, and on September 4, 2008, the Commission notified Mr. Ward of a complaint in MUR 6063, each alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaints were forwarded to Mr. Ward.

Upon further review of the allegations contained in the complaints, and other information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, the Commission, on February 26, 2009, and March 4, 2009, found that there is reason to believe that Mr. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b), (b)(3), (c), (d), (h)(1), and 434(b) of the Act and 11 C.F.R. § 104.14(d) of the Commission's regulations while serving as treasurer of the National Republican Congressional Committee, Tuesday Group PAC, Dedicated to Establishing National Teamwork PAC, Jobs, Economy and Budget Fund, Commitment to Outstanding Leadership and Direction PAC, Prosperity Helps Inspire Liberty PAC, Safeguarding America by Expanding National Security PAC, and Leading US in Success PAC. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In all future correspondence, please reference MUR 6179, into which all of Mr. Ward's matters have been merged. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Michael A. Columbo, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,

  
Steven T. Walther  
Chairman

Enclosures

Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: Christopher J. Ward**

**MUR: 6179**

**I. BACKGROUND**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities and based on two separate complaints filed by Prosperity Helps Inspire Liberty Political Action Committee ("Phil PAC") and Safeguarding America by Expanding National Security Political Action Committee ("SAXPAC") regarding the activities of Christopher J. Ward while serving as treasurer of these committees as well as the following committees: the National Republican Congressional Committee ("NRCC"); Tuesday Group Political Action Committee ("Tuesday Group PAC"); Dedicated to Establishing National Teamwork Political Action Committee ("DENTPAC"); Jobs, Economy and Budget Fund ("JEBFUND"); Commitment to Outstanding Leadership and Direction Political Action Committee ("COLDPAC"); and Leading US in Success Political Action Committee ("LUISPAC"). See 2 U.S.C. §§ 437g(a)(1)-(2). The available information includes indications of apparent misappropriation of committee funds by Mr. Ward, the committees' former treasurer, as well as his failure to deposit receipts, and other recordkeeping and reporting discrepancies that violated the Federal Election Campaign Act of 1971, as amended, ("the Act"). Based on the available information, there is reason to believe that Christopher J. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b), (b)(3), (c), (d), (h)(1), 434(b) and 11 C.F.R. § 104.14(d).

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## **II. FACTUAL AND LEGAL ANALYSIS**

### **A. Factual Summaries**

#### **1. The National Republican Congressional Committee**

The available information indicates that Christopher J. Ward, the NRCC's former treasurer, failed to report or misreported disbursements in connection with his embezzlement of approximately \$725,000 of NRCC funds, in violation of the Act. Christopher Ward worked at the NRCC starting in November 1995, served as the NRCC's long-time comptroller, was the treasurer of NRCC from 2003 through July 2007, and was a consultant for the NRCC from August 2007 until his termination in January 2008. The NRCC discovered the alleged embezzlement on January 28, 2008 when Ward informed the NRCC that there had been no audit of the NRCC for the year 2006. Ward's consultancy was terminated that same day. The NRCC then discovered that Ward fabricated a draft final audit report and submitted false 2006 financial statements to the NRCC's bank, and had been forging outside audit reports for several years.

During the course of an internal investigation, the NRCC learned that after becoming treasurer in 2003, Ward submitted false audit reports to the NRCC's bank for the years 2002-2006.<sup>1</sup> It appears likely that Ward made several hundred thousand dollars in unauthorized wire transfers of NRCC funds to outside committees whose bank accounts Ward had access to, including joint fundraising committees. It appears that Ward subsequently made transfers from those accounts to his personal or business bank accounts. The NRCC also discovered that there

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<sup>1</sup> According to news articles, the former head of the NRCC Oversight Committee, Rep. Greg Walden, stated that he had sought a meeting with the outside auditors (Deloitte & Touche, LLP) but that Ward always had a seemingly legitimate reason why the meeting did not happen. Paul Kane, *NRCC Says Ex-Treasurer Diverted up to \$1 Million*, WASHINGTON POST (March 14, 2008). Rep. Walden stated that the false audit reports were almost perfect forgeries. *Id.*

1 are numerous instances in which the unauthorized transfers were not accurately reported, or not  
2 reported at all, on the NRCC's disclosure reports.

3 The available information suggests that the total estimated loss to the NRCC was  
4 approximately \$725,000, that evidence of embezzlement and misreporting was found in the  
5 earliest records reviewed (2001), and that Deloitte and Touche, LLP never completed an audit of  
6 the 2002 fiscal year. Ward allegedly embezzled \$723,866.50 from the NRCC, which is the sum  
7 of embezzlement through "apparently unauthorized" transfers by Ward from the NRCC to other  
8 committees which Ward served as treasurer and his embezzlement through "apparently  
9 unauthorized" transfers of funds contributed to joint fundraising committees, a portion of which  
10 would otherwise have been disbursed to the NRCC.

## 11 2. Tuesday Group PAC

12 Ward served as treasurer for the Tuesday Group PAC from March 2007 through August  
13 2007, and continued to serve as a compliance consultant until the embezzlement was uncovered.  
14 The available information indicates that during a six-week period from October through  
15 December 2007, Ward embezzled a total of \$15,000 from Tuesday Group PAC by drawing funds  
16 from its bank account in the form of five checks, each for \$3,000, that he made payable to  
17 himself. These checks were not authorized by the Tuesday Group PAC and the disbursements  
18 were not disclosed on its reports filed with the Commission. The unauthorized transactions and  
19 disbursements were uncovered by way of a self-initiated audit conducted following media reports  
20 of Ward's apparent embezzlement of NRCC funds. In March 2008, Tuesday Group amended its  
21 reports to disclose these disbursements as "misappropriated funds" on its 2007 Monthly Reports  
22 for November and December, its 2007 Year-End Report, and 2008 February Monthly Report.

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1 The amended reports disclosed an increase in disbursements and decrease in cash-on-hand in  
2 proportion to the \$15,000 misappropriation by Ward.

3 **3. Dedicated to Establishing National Teamwork PAC**

4 The available information indicates that Ward, who served as DENTPAC's treasurer  
5 from August 2006 through February 2008, misappropriated \$2,000 of DENTPAC's funds by  
6 writing himself a DENTPAC check dated November 29, 2007. This transaction was not  
7 disclosed on DENTPAC's reports filed with the Commission. For reasons unknown, on  
8 February 1, 2008, Ward wrote a \$3,500 check from his personal bank account and deposited it  
9 into DENTPAC's bank account. DENTPAC discovered these unauthorized and unreported  
10 disbursements and transactions during a self-initiated audit conducted following media reports of  
11 Ward's apparent embezzlement of NRCC funds. In March 2008, DENTPAC filed amendments  
12 to its 2007 December Monthly, 2007 Year-End, and 2008 February Monthly Reports. The  
13 amended reports disclosed DENTPAC's \$2,000 check to Ward as "misappropriated funds," and  
14 also disclosed Ward's \$3,500 check to DENTPAC as "repayment of misappropriated funds."

15 **4. Jobs, Economy and Budget Fund**

16 Ward served as JEBFUND's treasurer from February 2006 through February 2008. The  
17 available information indicates that Ward embezzled \$4,000 of JEBFUND's funds by writing an  
18 unauthorized JEBFUND check, dated December 26, 2007, to himself. In February 2008, Ward  
19 wrote two checks from his personal bank account totaling \$4,208.78 and deposited them into  
20 JEBFUND's bank account. In a letter dated February 6, 2008 addressed to JEBFUND's current  
21 treasurer, Ward alleges that his refund checks to the JEBFUND were an attempt to correct  
22 accounting discrepancies. These unauthorized disbursements and transactions were not disclosed

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1 on JEBFUND's reports filed with the Commission. The JEBFUND uncovered the  
2 embezzlement through a self-initiated audit that it conducted following media reports of Ward's  
3 apparent embezzlement of NRCC funds. In March 2008, the JEBFUND filed amendments to its  
4 2008 February Monthly Report, its 2007 Year-End Report, and its 2007 Monthly Reports for  
5 February through December disclosing the unauthorized disbursement to Ward and his  
6 reimbursement. The JEBFUND's submission also alleges that a \$5,000 contribution from  
7 another PAC to JEBFUND that was previously disclosed in Commission reports prepared by  
8 Ward was never deposited into JEBFUND's bank account. Rather, Ward deposited the check,  
9 perhaps inadvertently, into another PAC's bank account.

10 **5. Commitment to Outstanding Leadership and Direction PAC**

11 Ward served as treasurer since COLDPAC's inception in May 2005 through February  
12 2008. The available information indicates that Ward embezzled \$20,000 of COLDPAC's funds  
13 by writing a COLDPAC check to himself dated April 2, 2007. This disbursement was not  
14 authorized and not disclosed on COLDPAC's reports filed with the Commission (Ward also  
15 failed to disclose as a disbursement a \$500 check payable to Political Compliance Services, a  
16 company of which Ward was a partner, which was authorized by COLDPAC). The  
17 embezzlement was discovered by COLDPAC through a self-initiated audit conducted following  
18 media reports of Ward's apparent embezzlement of NRCC funds. In April 2008, COLDPAC  
19 amended its 2007 Monthly Reports from May through December as well as its 2007 Year-End  
20 Report disclosing both the \$20,000 unauthorized disbursement to Ward and the authorized \$500  
21 disbursement to his company. In addition, COLDPAC's amended reports deleted several  
22 disbursements which had not been made by COLDPAC.

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**6. Prosperity Helps Inspire Liberty Political Action Committee**

The allegations in the complaint and other information available to the Commission indicate that Ward served as PhilPAC's treasurer since the PAC's inception on March 22, 2002 until his termination on February 2, 2008. Ward's duties included maintaining the books and records of PhilPAC, as well as ensuring compliance with the Act and the Commission's regulations. Ward received \$300 a month compensation from PhilPAC in exchange for the performance of his duties, and all payments to Ward for his services as treasurer have been properly disclosed to the Commission.

Upon learning from media reports of the alleged misappropriations with the NRCC and other committees that Ward served, PhilPAC fired Ward effective February 2, 2008 in a letter dated February 4, 2008. Thereafter, the new treasurer conducted an internal audit and discovered that Ward embezzled a total of \$17,000 of PhilPAC's funds. Ward wrote two PhilPAC checks to himself which were not authorized by PhilPAC: a September 28, 2007 check for \$7,000 and an October 29, 2007 check for \$10,000. These checks were not disclosed by Ward in reports filed with the Commission and it appears that Ward's failure to disclose the checks was an attempt to conceal the unauthorized payments.

The complaint further alleges that Ward failed to deposit into its bank account a \$1,500 check from Tuesday Group PAC, which Ward disclosed in PhilPAC's 2007 Year-End Report. PhilPAC has no information regarding where the original check may have been deposited (if anywhere). There is insufficient information at this time to determine whether the missing Tuesday Group PAC check was part of Ward's embezzlement scheme. However, Tuesday

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1 Group has since issued a new check, and it was deposited into PhilPAC's bank account on  
2 May 8, 2008.

3 Due to Ward's misappropriations and misreporting, PhilPAC bounced two checks to a  
4 vendor in December 2007 and incurred additional bank fees in the amount of \$60.76. Ward  
5 failed to disclose these bank fees in PhilPAC's disclosure reports.

6 On January 29, 2008, Ward deposited a \$15,000 contribution from Jerry Weller for  
7 Congress, which exceeded the Act's limits on contributions to political committees set forth at  
8 2 U.S.C. § 441a(a)(1)(C), into PhilPAC's account. On February 8, 2008, four days after Ward  
9 was terminated, PhilPAC refunded the entire contribution to Jerry Weller for Congress and  
10 subsequently disclosed both the receipt and refund in its reports filed with the Commission.  
11 Disclosure reports filed with the Commission reveal that Jerry Weller for Congress had not  
12 disclosed the making of the \$15,000 contribution, but did disclose the receipt of PhilPAC's  
13 refund of the contribution.

14 It appears that Ward may have signed the contribution check from Jerry Weller for  
15 Congress but it is unclear how Ward would have had access to the Jerry Weller for Congress  
16 checkbook. Although Jerry Weller for Congress disclosed disbursements to Ward's company,  
17 Political Compliance Services, for the performance of administrative and compliance services in  
18 October and November 2007, there is no indication that Ward served as treasurer of Weller for  
19 Congress at any time.

20 **7. Safeguarding America by Expanding National Security**  
21 **Political Action Committee**  
22

23 The allegations in the complaint and other information available to the Commission  
24 indicate that Ward served as SAXPAC's treasurer since the PAC's inception in February 2005

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1 until SAXPAC was granted a termination on February 12, 2008 (the Commission granted  
2 SAXPAC's request for termination before it learned of Ward's alleged embezzlement and  
3 reporting violations). Following termination of its registration as a political committee and upon  
4 learning from media reports of NRCC's concerns with Ward, SAXPAC began an internal review  
5 of its records and found discrepancies between its bank activity and information contained in  
6 reports Ward filed with the Commission. On May 2, 2008, counsel for SAXPAC notified the  
7 Commission that SAXPAC's internal review revealed that Ward embezzled committee funds and  
8 that there were various reporting discrepancies.

9 During its internal audit SAXPAC discovered that Ward wrote himself two unauthorized  
10 \$5,000 checks from its bank account to which he was not entitled. The first check was dated  
11 August 20, 2007 and the second check was dated August 24, 2007. It appears that Ward  
12 attempted to conceal his misappropriations by not disclosing these checks as disbursements on  
13 SAXPAC's reports filed with the Commission.

14 In addition to not disclosing the two checks he wrote himself, SAXPAC's internal audit  
15 revealed several other discrepancies in the reports that Ward filed with the Commission. In  
16 September 2007, October 2007, and January 2008, Ward filed reports disclosing payments  
17 totaling \$4,060 to Political Compliance Services, the consulting company where Ward was a  
18 partner. However, according to SAXPAC, only a single payment of \$500 was made to PCS.  
19 During this same time period, Ward's reports filed with the Commission disclosed payments  
20 totaling \$6,000 to McGahn & Associates, while only a single payment of \$3,000 was made to  
21 this firm by check dated January 25, 2008 and cashed on February 29, 2008.

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On February 6, 2008, Ward made a cash deposit of \$2,393.45 into SAXPAC's bank account. According to SAXPAC, this was an unauthorized deposit, it was not disclosed on SAXPAC's original reports covering this period, and the source of the funds used for this deposit has not been identified.

SAXPAC's internal review revealed other minor reporting discrepancies attributable to Ward. First, SAXPAC's 2008 January Monthly Report discloses \$130.55 in miscellaneous expenditures for which it can find no accompanying withdrawal from its bank account; and, the report omitted a \$1,000 deposit made on January 9, 2008. Second, there were bank charges of \$12 per month for the months of October, November and December 2007, and a \$35 bounced check bank fee in February 2008, which were not disclosed on SAXPAC's original reports filed with the Commission. Third, SAXPAC's original 2006 June Monthly Report disclosed a \$1,000 contribution from Dannie J. O'Brien. However, it appears that this check was never deposited into SAXPAC's bank account and it has no records in its possession indicating that O'Brien ever made a contribution to SAXPAC. Last, Ward disclosed a closing balance of \$0.00 on SAXPAC's Termination Report filed on January 27, 2008, when in fact, SAXPAC had a \$600 cash-on-hand balance.

**8. Leaving US in Success Political Action Committee**

Ward served as LUISPAC's treasurer from LUISPAC's inception in February 2004, until he was replaced on February 20, 2008. On June 20, 2008, LUISPAC filed five amended reports for the 2007-2008 election cycle disclosing four disbursements to Ward totaling \$40,000, a \$1,000 disbursement to SAXPAC, and a \$23,500 receipt from Ward. Specifically, the amended reports identified as "unauthorized disbursements" a \$20,000 disbursement to Ward on April 9,

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2007; a \$10,000 disbursement to Ward on July 24, 2007; a \$5,000 disbursement to Ward on August 17, 2007; and a \$5,000 disbursement to Ward on August 24, 2007. The Amended 2008 February Monthly Report disclosed an "unauthorized political contribution" in the amount of \$1,000 on January 3, 2008 to SAXPAC. The available information indicates that Ward wrote the checks that disbursed funds to himself without authorization. Further, the Amended 2008 March Monthly Report disclosed a \$23,500 receipt from Ward on February 8, 2008 with the purpose identified as "refund - unauthorized disbursement."

**B. Liability of Christopher J. Ward**

According to Commission policy, a former treasurer may be named as a respondent in his personal capacity when it appears that, while serving as a treasurer, he may have violated obligations imposed by the Act or Commission regulations personally on a treasurer and where, among other situations, the violations were knowing and willful. *See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings*. 70 Fed. Reg. 3 (January 3, 2005); *see, e.g.*, MUR 5610 (Earl Allen Haywood) and MUR 5721 (Kenneth Phelps). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge" that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). In *Hopkins*, the court found that an inference of a knowing and willful violation could be drawn "from the defendants' elaborate scheme for disguising their . . . political contributions . . ." *Id.* at 214-15. The court also found that the evidence did not have to show that a defendant "had specific knowledge of the regulations" or "conclusively demonstrate" a defendant's "state of mind," if there were "facts and circumstances from which the jury reasonably could infer that

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[the defendant] knew her conduct was unauthorized and illegal." *Id.* at 213 (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir.), *cert. denied*, 493 U.S. 838 (1989)).

Ward appears to have transferred hundreds of thousands of dollars from the committees he served as treasurer to himself over the course of at least six to seven years. The available information suggests that Ward attempted to disguise his embezzlements by knowingly and willfully omitting the unauthorized transactions from the reports he filed with the Commission on behalf of the committees he served, by omitting them from the internal records of the National Republican Congressional Committee, and on at least two occasions by intentionally mischaracterizing disbursements to vendors on reports he file with the Commission. The Commission can infer that he had knowledge his conduct was prohibited by law based on his attempts to conceal it. Consequently, the Commission has made findings, discussed below, as to Christopher Ward in his personal capacity for his actions while serving as treasurer of the NRCC, Tuesday Group PAC, DENTPAC, JEBFUND, COLDPAC, PhilPAC, SAXPAC, and LUISPAC.

As treasurer of the NRCC, Tuesday Group PAC, DENTPAC, JEBFUND, COLDPAC, PhilPAC, SAXPAC, and LUISPAC, Ward was required to accurately keep an account of and disclose cash-on-hand, receipts and disbursements. See 2 U.S.C. §§ 432(c), (d) and 434(b)(1), (2), (3), (4), (5) and (6)(A) and (B) and 11 C.F.R. § 104.3(a), (b). Further, he was required to deposit all committee receipts in designated bank accounts. 2 U.S.C. § 432(h)(1) and 11 C.F.R. § 103.3(a). Committee treasurers required to file any report or statement under the Act and the Commission's regulations are also personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d). It appears Ward knowingly and willfully failed to keep an accurate account

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1 of all cash-on-hand, disbursements and receipts, and failed to deposit receipts, in connection with  
2 his activities as treasurer of the NRCC, DENTPAC, JEBFUND, COLDPAC, PhilPAC,  
3 SAXPAC, and LUISPAC in order to hide his fraudulent scheme and failed to accurately disclose  
4 certain receipts and disbursements in the reports that he filed with the Commission.

5 The Act also prohibits the commingling of committee funds with the "personal funds of  
6 any individual," including officers of a committee. 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15.  
7 The Commission has previously made findings that individuals have violated 2 U.S.C.  
8 § 432(b)(3) in matters where the individuals misappropriated committee funds by making  
9 unauthorized disbursements to themselves or others to pay for personal expenses. *See, e.g.,*  
10 MUR 5610 (Earl Allen Haywood), MUR 5721 (Kenneth Phelps), MUR 5811 (Kristi Willis) and  
11 MUR 5872 (Jennifer Hildebrand). *But see, e.g.,* MUR 5898 (Ryan Pennington).

12 In connection with his work as treasurer for the NRCC and its joint fundraising  
13 committees, Christopher Ward appears to have knowingly and willfully commingled committee  
14 funds with his personal funds by wiring NRCC's funds without authorization to the bank  
15 accounts of other committees that he served as treasurer and then subsequently transferring those  
16 funds to his own bank accounts. Based upon available information regarding the other  
17 committees, Ward also knowingly and willfully commingled committee funds with personal  
18 funds by writing himself checks from committee accounts without authorization. It appears that  
19 Ward either cashed the checks or deposited them into his personal bank account. For example,  
20 as treasurer of SAXPAC, Ward endorsed the back of checks that he wrote to himself and wrote  
21 an account number below his signature corresponding to one of his personal bank account  
22 numbers. In addition, on at least three occasions, Ward deposited his personal funds into

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1 committee accounts by writing checks from his personal bank account and depositing them into  
2 committee accounts. As another example, given that the Commission does not know the source  
3 of funds used to make Ward's unauthorized deposit of \$23,500 into LUISPAC's account,  
4 questions remain as to whether Ward took funds embezzled from another committee, placed  
5 them in his personal bank account, and then deposited them into LUISPAC's bank account.

6 Therefore, there is reason to believe that Christopher Ward knowingly and willfully  
7 violated 2 U.S.C. §§ 432(b), 432(b)(3), (c), (d), (h)(1), and 434(b), and 11 C.F.R. § 104.14(d) in  
8 this matter.

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